



INTRODUCTION TO LIABILITY INSURANCE

If someone falls while visiting your business premises or a customer is hurt by a product your business sells, you can be held responsible. That's the risk that liability insurance covers.

In a 2004 survey released by the National Federation of Independent Business (NFIB), 30 percent of small business owners ranked the cost and availability of liability insurance as the second most important insurance concern they faced. (Health insurance ranked first, while workers' compensation ranked third.) Concerns about liability insurance are significantly increasing. In a 2000 survey, only 11 percent of small business owners cited cost and availability of liability insurance as a critical issue.

Liability insurance, also called Commercial General Liability (CGL), covers four categories of events for which you could be held responsible: bodily injury; damage to others' property; personal injury, including slander and libel; and false or misleading advertising. CGL coverage pays for the injured party's medical expenses. It excludes your employees, who are covered by workers' compensation. Bear in mind that even trespassers can sue you if they fall and get hurt on your business premises!

There are three types of legal damages people may sue you for that are typically covered by a CGL policy:

- **Compensatory damages:** financial losses suffered by the injured party and future losses they may suffer resulting from an injury they claim in the lawsuit.
- **General damages:** non-monetary losses suffered by the injured party, such as "pain and suffering" or "mental anguish."

Standard liability insurance *does not* protect a business against:

- *Claims from sexual harassment, wrongful termination of employees, failure to employ or promote, or race and gender lawsuits.* These and other employee-related claims are covered by employment practices liability coverage. The cost of employment practices liability coverage depends on a business' number of employees, whether there is a history of the company having been sued in the past, and other business risk factors. The policy also pays for legal costs associated with a company's defense of a lawsuit related to employment practices.

- *Claims related to operating an automobile or truck.* If you own vehicles for your business, whether for deliveries or client consultations, you will need separate commercial automobile coverage to protect you and your employees against liability claims resulting from car accidents.
Automobile liability insurance is required by most states. It covers medical expenses and damages to another person's property as a result of a motor vehicle accident caused by the insured's negligence. Some states mandate "no fault" auto insurance, which provides coverage for medical expenses, rehabilitation, funeral expenses, lost wages and in-home assistance to the driver and his or her passengers, regardless of who is held at fault in an accident. Many policies offer or include uninsured or underinsured motorist protection, which provides coverage for the insured and his or her passengers if they are injured in a collision caused by an uninsured or underinsured motorist. If your vehicle is primarily used for business, make sure your company's name is on the policy instead of your personal name to avoid complications later should you need to file a claim. (For details, see commercial auto insurance section of this site.)
- *Professional Liability insurance — or Errors and Omissions insurance —* is coverage for wrongful practices by professional service providers (e.g. healthcare providers, lawyers and consultants). This type of insurance covers faulty service (errors) or failure to provide a service altogether (omission). Malpractice insurance is a specific type of professional liability policy that protects physicians and other licensed professionals from liability associated with bodily injury, medical expenses and property damage, as well as the cost of defending lawsuits related to such claims.

As with other liability insurance policies, premiums for professional liability coverage depend on the type of professional service provided and its level of risk.

- *Claims related to workers' compensation insurance.* Workers' compensation insurance protects a business owner from claims by employees who suffer a work-related injury or illness. In all states, most companies are required to carry workers' compensation insurance for their employees. Typically, workers' compensation covers the employee's medical expenses, rehabilitation costs and missed wages. You will need a separate policy for this type of coverage. Check with the D.C. Department of Insurance, Securities and Banking for specific requirements in the District of Columbia.
According to the Small Business Administration, business owners, independent contractors, domestic employees in private homes, farm workers and unpaid volunteers are usually exempt from workers' compensation eligibility. If this is the first time you're purchasing workers' compensation insurance, the rate will depend on your payroll and your industry. After a few years, your premiums may be based on the actual experience of your company.

Other types of liability insurance include:

- An **umbrella liability policy** provides extra protection above a standard policy. Umbrella policy coverage limits are typically within the \$1 million to \$5 million

range and are appropriate for business owners who have large assets or may be especially vulnerable to lawsuits.

- **Crime Insurance** protects businesses from theft and malicious damage, such as employee embezzlement.
- **“E–insurance”** or **Internet Business Insurance** covers Web-based businesses for damages caused by computer hackers and viruses.

Tips and Considerations Concerning Liability Insurance

- Liability insurance premiums are typically based on a business’ sales and payroll estimates provided *prior* to policy inception. If the actual amounts turn out to be higher after the policy has been issued, you may need to pay an incremental premium. Conversely, if the amounts are less than estimated, you could get a refund.
- Other factors that influence your liability premiums include your type of business and the risks generally associated with it. For example, a toy manufacturer may pay \$3 per \$1,000 of sales. Thus, on \$10 million of sales, the premium would be \$30,000. A company that manufactures a less “risky” product or engages in a less risky business, such as a florist, may pay \$1.50 per \$1,000 of sales or \$15,000.
- Insurance companies evaluate a business’s risk for liability coverage based on numerous factors: the number of claims filed within an industry or probability of a claim for a similar type of company; the financial stability and longevity of a business; state laws; business products and/or operation; and a business’ approach to handling and preventing potential risks.

If you have solid, documented practices and safety procedures in place, you may be considered a lower risk by an insurance company for liability insurance and therefore be charged lower premiums.

For more information about insurance, small business owners can visit DISB’s Web site at www.disb.dc.gov and NAIC’s new education Web site for small businesses, Insure U for Small Business Online at <http://www.insureuonline.org/smallbusiness/index.htm>

ABOUT THE NAIC

Headquartered in Kansas City, Missouri, the National Association of Insurance Commissioners (NAIC) is a voluntary organization of the chief insurance regulatory officials of the 50 states, the District of Columbia and five U.S. territories. The association’s overriding objective is to assist state insurance regulators in protecting consumers and helping maintain the financial stability of the insurance industry by offering financial, actuarial, legal, computer, research, market conduct and economic expertise. Formed in 1871, it is the oldest association of state officials. For more information, visit NAIC on the Web at: http://www.naic.org/press_home.htm

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The Government of the District of Columbia Department of Insurance, Securities and Banking (DISB) regulates all financial-service businesses in the District of Columbia. DISB has two overall missions: to provide fair, efficient and fast regulatory supervision of financial-service activities for the protection of the people of the District of Columbia; and to create conditions that will attract and retain national and international insurance, securities, banking and other financial-services businesses to the District. For more information, visit DISB on the Web at www.disb.dc.gov.